

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: Mario Francis Magnotta		
	Debtor(s)	CHAPTER 13
MIDFIRST BANK		
	Movant	
vs.		
		NO. 22-11824 PMM
Mario Francis Magnotta		
	Debtor(s)	
Brian J Wentz		
	Co-Debtor(s)	
Kenneth E. West		11 U.S.C. Section 362 and 1301
	Trustee	

**MOTION OF MIDFIRST BANK
FOR RELIEF FROM THE AUTOMATIC STAY
UNDER SECTION 362 AND SECTION 1301**

1. Movant is MIDFIRST BANK.
2. Melody R. Magnotta and Brian J. Wentz are the original mortgagors and owners of the premises 1300 Shadyside Road, Downingtown, PA 19335, hereinafter referred to as the mortgaged premises. Upon information and belief, unfortunately mortgagor and property owner Melody R. Magnotta is deceased. Upon information and belief, Debtor is the spouse of Melody R. Magnotta and the successor in interest to the share of the property held by deceased property owner Melody R. Magnotta.
3. Debtor has listed the mortgaged premises as Debtor's primary residence on the Debtor's bankruptcy petition and schedules.
4. Movant is the holder of a mortgage, original principal amount of \$326,235.00 on the mortgaged premises that was executed by Melody R. Magnotta and Co-Debtor Brian J. Wentz as co-mortgagors on January 12, 2017. The mortgage has been assigned as follows: FROM: The Money Source, Inc. TO: MidFirst Bank, by assignment of mortgage dated May 12, 2023, and recorded in Chester County PA on May 15, 2023, in Book 11051, Page 830.
5. Kenneth E. West, is the Trustee appointed by the Court.

6. The commencement and/or continuation of the mortgage foreclosure proceedings by reason of non-payment of monthly mortgage payments were stayed by the filing of a Chapter 13 Petition in Bankruptcy by the Debtor(s).

7. Movant has not filed a proof of claim in this Chapter 13 case.

8. Debtor did not list the mortgage held by Movant on the Debtor's Schedule D form, nor did the Debtor list an ownership interest in the mortgaged premises on the Debtor's Schedule A/B.

9. Debtor's latest Chapter 13 plan filed on April 19, 2023, as Document number 60 does not provide for curing any pre-petition amount in default, nor does it provide for maintaining post-petition monthly payments due on the mortgage loan.

10. Debtor, Mario Francis Magnotta, is not obligated to make monthly mortgage payments on Movant's mortgage loan.

11. Co-Debtor, Brian J. Wentz, is liable on the mortgage loan secured by the aforesaid mortgage.

12. Monthly mortgage payments have not been made and remain due in the amount of \$2,603.84 for the months of March 2020 through November 2021, \$2,728.42 for the months of December 2021 through November 2022, \$2,705.03 for the month of December 2022, and \$2,649.31 for the months of January 2023 through July 2023. The total post-petition arrears amount to \$32,163.88, plus fees and costs and late charges if applicable.

13. The total amount needed to reinstate the loan is \$108,671.88, plus fees and costs.

14. In addition to the other amounts due to Movant reflected in this Motion, as of the date hereof, in connection with seeking the relief requested in this Motion, Movant has also incurred legal fees and legal costs. Movant reserves all rights to seek an award or allowance of such fees and expenses in accordance with applicable loan documents and related agreements, the Bankruptcy Code and otherwise applicable law.

15. Movant is entitled to relief from stay for cause.

16. This motion and the averments contained therein do not constitute a waiver by Movant of its right to seek reimbursement of any amounts not included in this motion, including fees and costs, due

under the terms of the mortgage and applicable law.

WHEREFORE, Movant prays that an Order be entered modifying the Stay and permitting Movant to proceed with its mortgage foreclosure on the mortgaged premises, and to allow the Sheriff's Grantee to take any legal action to enforce its right to possession of the mortgaged premises. Further, Movant prays that an Order be entered awarding Movant the costs of this suit, reasonable attorney's fees in accordance with the mortgage document and current law together with interest.

/s/ Michael P. Farrington

Michael P. Farrington, Esquire

KML Law Group, P.C.

701 Market Street, Suite 5000

Philadelphia, PA 19106-1532

Phone: (215) 627-1322 Fax: (215) 627-7734

Attorneys for Movant/Applicant